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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HARRELL, ROBERT B

ART UNIT PAPER NUMBER

2142

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,997

Applicant(s)

NARAD ET AL.

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 65-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20060120</u> . | 6) <input checked="" type="checkbox"/> Other: <u>see attached Office Action</u> . |

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1. Claims 65-81 are presented for examination.
2. The claims are now directed to reassembling TCP data streams from segments sent from the TCP end points as currently claimed. However, the specification is not confined to only the defined invention within the current claims. Thus, the Specification is Objected by examiner. A new Specification (including Drawings and Abstract) is required which modifies the brief summary of the invention and restrict the descriptive matter so as to be in harmony with the claims as they currently stand within this Application. Per MPEP 1302.01 patents should be confined in their disclosures to the respective inventions patented (see 37 CFR 1.71 and 1.73) and not complicated by extraneous matter. In doing so, the applicant is reminded to include all related United States Patent Application (i.e., Abandoned, Pending, or their corresponding United States Patent Number). The applicant is further reminded of the provisions of 37 C.F.R. 1.125, with respect to mark-up versions and to add a statement, on a separate paper, that the Substitute Specification contains "*No New Matter*".
3. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks TM, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

5. *Claims 65-81 are rejected under 35 U.S.C. 102 (e)* as being anticipated by Engel et al. (United States Patent Number: 6,115,393).

6. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW

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through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

7. The rejection, and grounds for rejection, under 35 U.S.C. 102(e) as presented in examiner's prior Office Action mailed 24 March 2005 as modified in examiner's prior Office Action mailed 18 October 2005, each hereby maintained and incorporated in this Office Action by reference(s).

8. The applicant argued in his 20 January 2006 response by stating in substance that:

In the previous office action response, Applicants pointed out that Engel did not teach reassembly of a TCP data stream as recited by the amended claims. The Examiner's current office action correctly notes that TCP end-points reassemble received segments based on their sequence number since that is one of the main reasons to have sequence numbers in the first place. However, claims 65 and 74 recite reassembly of the pair of data streams flowing in both directions between TCP end-points. For example, an implementation of claim 65 may be placed in a router carrying TCP/IP packets between two end-points. A router in between two end-points generally tries very hard to get the packets further toward their final destination quickly and relies on the end recipient to reshuffle the packets into the right order. In essence, the router is like a postal worker who does not read the mail, but just tries to get it delivered as quickly as possible. Using the recited invention, the router could reassemble the data stream in both directions for inspection at the router (e.g., could reassemble the data stream finding a virus in a TCP data stream traveling across the Internet) instead of merely forwarding the packets onward as quickly as possible. Engel does not describe such reassembly nor is such reassembly inherent in receiving packets having a sequence number. *However*, the claims fail to recite any reassembling of a pair of data streams flowing in both directions between TCP end-points since there is no temporal order given in the claims. As is currently claimed, the TCP data streams are reassembled from the payloads of TCP segments anywhere within the system by a processor at any time and/or place. Specifically, there is no limitation of a router that would reassemble the data stream in both directions for inspection at the router. As covered by the claims, and taught by Engel, is the reassembly of data streams from payloads of TCP segments in the manner so claimed in this application. It would appear, unless examiner is wrong, the applicant is arguing reassembly at some point between the endpoints to which the claims are not so limited. As covered in Engel, there are multiple bridges, nodes, routes, and the like through which the packets traverse, in bidirectional manner, in which streams are reassemble and queued/buffered for further transmission about the network (e.g., see Abstract and with reference to "queue" and "buffer" (i.e., frame buffers)) which function as intermediary routers for which network monitoring is permitted per the Title of Engel such that the contents of packets are detected passively and in real time (e.g., see Abstract). Therefore, there was reassembly of bidirectional data streams from payloads while packets were in transient between endpoints for content detection (i.e., midpoint reassembly at servers/bridges/routers/etc... in Engel).

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9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew T. Caldwell, can be reached on (571) 272-3868. The fax phone number for all papers is (703) 872-9306.

13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142